# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Amdt
11/26/01

In re the application of: Anthony *et al.*

Serial No.: 09/116,138

Filed: 07/15/98

For: High Permittivity Silicate Gate Dielectric

Docket: TI-24953

Examiner: A. Mai

Art Unit: 2814

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## ELECTION

FACSIMILE CERTIFICATE
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Jackie McBride
Jackie McBride

November 19, 2001

Ass't Commissioner for Patents
Washington, DC 20231

Examiner:

In response to the Office Action dated October 22, 2001, Applicants hereby elect to pursue Group I, Species Ie-1-3: Claim 30. This election is made with traverse.

1. Regarding the restriction between Group I—method—and Group II—device, Applicants traverse the Office Action's reasoning as to how the product could be made with a materially different process. The Office Action's reasoning discussed a hypothetical process in which the metal or zirconium silicate layer can be made by implanting oxygen ions into a metal or zirconium silicide layer, then annealing in an oxidizing ambient. Applicants will assume—for the purposes of the current discussion—that this approach is a feasible approach to forming the claimed field-effect device. However, Applicants submit that this hypothetical method would be a process that infringes claim 1. Thus, the hypothetical process is not a materially different process and restriction is not currently appropriate.

2. Regarding the species restriction, Applicants wish to note that the scope of the restriction requirement is breathtaking. Applicants' understanding is that the application has been restricted into well more than 20 species.

Applicants do not traverse Examiner's finding that the claimed inventions are patentably distinct. However, Applicants do traverse the Office Action's assertion that this distinctiveness places a serious burden on the Examiner.

- Applicants have received several Office Actions from at least two different Examiners that competently address the merits of the claimed inventions. These earlier Office Actions show that—at least for the first 40 claims—the burden placed on the USPTO is not excessive, particularly in light of the excess claim fees received by the USPTO.

- Regarding the new claims, presented in August, claims 46 - 73 are intended to be Zr-based embodiments of original claims 1 - 30. Some of these claims are similar in scope to canceled claims 41 - 45. (Note: Claims 41 - 45 were canceled since the new claims provided similar protection with a more focussed claim). Additionally, many of the rejections presented to date are based on prior art disclosing Zr. Thus, the addition of claims 46 - 73 has presented little additional burden to the examination of this application.

- The USPTO forced Applicants to elect which group of claims to have examined in August 1999. Any serious burden could have been recognized at that time—before both the USPTO and Applicants invested a great deal of time and energy in the instant application.

- Examiner has already indicated that several claims—including elected claim 30—contain allowable subject matter. Applicants believe that—even if the restriction is proper for some of the claims—the currently allowable claims should remain in the instant application.

3. If Examiner has any further comments or suggestions, Applicants respectfully request that Examiner contact the undersigned in order to expeditiously resolve any outstanding issues.

Respectfully submitted,

David Denker
Reg. No. 40,987

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For: **High Permittivity Silicate Gate Dielectric**

**CERTIFICATION OF FACSIMILE TRANSMISSION**

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NAME OF INVENTOR(S):
Anthony et al.

TITLE OF INVENTION:
High Permittivity Silicate Gate Dielectric

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